

City Council Meeting Minutes

**January 19, 2016
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: ***Mayor Muckle, Mayor Pro Tem Jeff Lipton;
City Council members: Dennis Maloney, Chris Leh,
Susan Loo, Jay Keany and Ashley Stolzmann***

Staff Present: ***Malcolm Fleming, City Manager
Heather Balser, Deputy City Manager
Kevin Watson, Finance Director
Kurt Kowar, Public Works Director
Troy Russ, Interim Planning & Building Safety Director
Sean McCartney, Principal Planner
Suzanne Jannsen, Cultural Arts & Special Events
Nancy Varra, City Clerk***

Others Present: ***Sam Light, City Attorney***

PLEDGE OF ALLEGIANCE

Mrs. Rachuinski's first grade class from Coal Creek Elementary led the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda as published, seconded by Council member Keany. All were in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Jean Morgan, 1131 Spruce Street, Louisville, CO noted tomorrow, January 20, 2016 is the 80th anniversary of the Monarch Mine disaster. She asked Council to take a moment to think about the miners who made the town.

APPROVAL OF THE CONSENT AGENDA

Mayor Muckle called for changes to the consent agenda and hearing none, moved to approve the consent agenda, seconded by Council member Stolzmann. All were in favor.

- A. *Approval of the Bills***
- B. *Approval of Minutes; December 15, 2015 and January 5, 2016***
- C. *Approval of Agreement with Resource Based International for 2016 Water Rights Administration***
- D. *Approval of Resolution No. 5, Series 2016 – A Resolution Approving Agreements Between the City of Louisville and Dutko Worldwide, LLC D/B/A Grayling, and the City of Louisville and Boyagian Consulting LLC, to Furnish Lobbyist Services to the US 36 Mayors and Commissioners Coalition***
- E. *Approval of Changes to the March 2016 City Council Meeting Schedule***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

No items to report.

CITY MANAGER'S REPORT

City Manager Fleming reported the Boulder Weekly recognized the Coal Creek Golf Course as the best golf course in Boulder County.

REGULAR BUSINESS

PROCLAMATION: ONE ACTION: ART + IMMIGRATION

Mayor Muckle requested a staff presentation.

Cultural Arts & Special Events Coordinator Janssen expressed her pleasure to accept the proclamation on behalf of the Boulder County One Action – Art + Immigration Steering Committee. This project is the first arts-based collaboration to take place in the County. The intent is to present programs that foster community conversation on historic and contemporary uses of immigration. Through the arts, personal expression and individual cultures will be shared throughout 2016. The hope is to be able to engage in meaningful discussion about ancestry and heritage and what everyone brings to the community. Extensive planning efforts began in early 2015. The One Action 2016 Project Kick-Off Celebration will be held at the Longmont Museum on Saturday, January 23, 2016 from 2-5 p.m. This event is free and open to the public. She invited and encouraged the public to attend the event.

In 2016 there will be programs and events throughout the County, which will bear the One Action Logo. In Louisville alone, 15 events are currently being planned. The programming will begin on February 19th at the Louisville Center for the Arts with Rock, Karma, Arrows; a 3-part film series with panel discussion addressing the early history and immigration of the Boulder County area.

She acknowledged the efforts of the Louisville Cultural Council, the Louisville Art Association, the Louisville Public Library and the Louisville Historical Museum, as well as Clay Art Pottery and individual artists, such as Dona Laurita, Dawn DeAno and Kat Fritz, all of whom are actively involved in One Action. She encouraged local artists, performers and organizations who are interested in participating in the project to contact her. The program information can be found on the City's Web Site.

She asked Mayor Muckle to share his contribution to the One-Action project. Mayor Muckle explained as Mayor he was asked to have his DNA tested. The reports documented his prominent Native American heritage and Basque ancestry. All of the Mayors in the County had their DNA tested as part of the program. He stated his understanding that artists will paint pictures of the Mayors based on their DNA.

Mayor Muckle read the proclamation, which proclaimed 2016 as One Action: Art + Immigration within Boulder County.

AWARD BID FOR 95TH STREET (COUNTY ROAD) BRIDGE REPLACEMENT

Mayor Muckle requested a staff presentation.

Public Works Director Kowar recommended Council award a contract to Hamilton Construction Co to rebuild the 95th Street Bridge over Coal Creek, which was destroyed in the 2013 flood. The contract amount is \$1,817,175.20, with a 10% contingency of \$180,000. Also under consideration is a contract extension with Michael Baker Jr. Inc., for additional design and construction management services for \$47,582.17. If approved, the staff can proceed with CDOT review and agreement to begin the construction of the bridge. It is anticipated the bridge construction will take six months after final CDOT approval. The construction anticipates a complete replacement of roadway from Bella Vista and south, past the Wecker property. There will be space beneath for a future trail. There will be aesthetic components, with a brick look and a three rail fence. The roadway will have 4' shoulders and 11' lanes in either direction.

Staff Recommendation: Staff recommended the City Council award the 95th Street Bridge Replacement Project to Hamilton Construction Co. per their bid of \$1,817,175.20, authorize a project contingency of \$181,717.52, and authorize the Mayor, Public Works Director and City Clerk to sign and execute contract documents on behalf of the City. Staff also recommended the City Council approve funds for additional design and construction management services for Michael Baker Jr. Inc., per their proposal fee of \$47,582.17.

COUNCIL COMMENT

Council member Maloney inquired whether the roadway would actually be open in six months or would the bridge just be replaced. Public Works Director explained the six months benchmark is when the project is complete and the roadway is open. He stressed the opening would be contingent upon the weather.

Council member Maloney noted Hamilton was the low bidder. He asked Public Works Director Kowar for his comfort level with this construction firm. Public Works Director Kowar stated he was very comfortable with the firm. Because it is a CDOT project, it came with more requirements. He noted any of the bidders would be qualified to complete the bridge project.

Council member Stolzmann explained this is a huge priority for the City Council and the Public Works Department. She felt there should be a City Council study session where Council could look at the results of the flood and the lessons learned. She stated the bridge will cost one million dollars less than expected, and she wondered if Council would have waited this long to have the bridge replaced had they known the actual cost.

MOTION: Mayor Muckle moved to award the bid for the 95th Street Bridge Replacement to Hamilton Construction Company in the amount of \$1,817,175.20, authorize a project contingency of \$181,717.52, and authorize the Mayor, Public Works Director and City Clerk to sign and execute contract documents on behalf of the City and approve funds for additional design and construction management services for Michael Baker Jr. Inc., per their proposal fee of \$47,582.17. The motion was seconded by Mayor Pro Tem Lipton. Roll call vote was taken. The motion carried by a vote of 7-0.

Mayor Muckle referenced the process and noted this is the last really big construction project resulting from the flood. He voiced his appreciation to the Public Works Department, City Manager's Department and all the Departments for their work on the flood recovery projects.

6TH AMENDMENT TO THE TAKODA GENERAL DEVELOPMENT PLAN (GDP) AND THE FOUNDRY PLANNED UNIT DEVELOPMENT (PUD) HIGHWAY 42 AND PASCHAL DRIVE

- 1. ORDINANCE No. 1712, SERIES 2016 – AN ORDINANCE APPROVING AN AMENDMENT TO THE TAKODA GENERAL DEVELOPMENT PLAN (GDP) TO REZONE THE PROPERTY FROM PCZD-C TO PCZD-C/R– SECOND READING - PUBLIC HEARING**
- 2. ORDINANCE No. 1713, SERIES 2016 – AN ORDINANCE APPROVING THE VACATION OF VARIOUS EASEMENTS ON LOT 1, BLOCK 9 AND TRACT T OF TAKODA SUBDIVISION, AND LOT 2 OF SUMMIT VIEW SUBDIVISION – SECOND READING - PUBLIC HEARING**

3. RESOLUTION No. 3, SERIES 2016 – A RESOLUTION APPROVING A FINAL PLAT AND FINAL PLANNED UNIT DEVELOPMENT (PUD) TO CONSTRUCT A MULTI-USE DEVELOPMENT CONSISTING OF 24 AGE RESTRICTED CONDOMINIUMS, 8 NON-RESTRICTED CONDOMINIUMS, AND 38,000 SF COMMERCIAL AND OFFICE LAND USES

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance Nos. 1712 and 1713, Series 2016 and Resolution No. 3, Series 2016. Members of the public may speak on any of the three agenda items.

Mayor Muckle opened the public hearing and requested a staff presentation.

Principal Planner McCartney explained several emails were received after the packet was assembled. Council member Stolzmann requested several informational items and staff's response to her requests were placed at the dais for the City Council to review.

The request before the City is for a rezoning, Final Plat and Final Planned Unit Development (PUD) to construct a multi-use development consisting of 24 age restricted condominiums, 8 non-restricted condominiums, and 38,000 SF commercial and office land uses. The subject property is located in north Louisville and zoned PCZD-C. The applicant is requesting PCZD-C/R zoning of 5.82 acres for a mixed-use development. The property is south of Indian Peaks, Filing 17.

Comp Plan: The 2013 Comp Plan identifies this area as an "Urban Corridor" with a focus on commercial, office, neighborhood retail and residential density allowance up to 25 units per acre. Principal NH-5 calls for a mix of housing types; multi-generational needs and empty nesters. The proposal is for 24 age restricted units for empty nesters.

Rezoning: The property is surrounded by PCZD-C/R and PCZD-R zoning and complies with the surrounding zoning. Public Land Dedication (PLD): 3% additional PLD for the residential portion of property. The commercial zoning has already been dedicated. The original site plan included 3 access points, no access to Kaylix Street, 48 residential units, 56,200 SF commercial (two story in-line commercial) two drive-thru's and two in-line commercial uses. Residents requested age restricted housing and no drive-thru's. The applicant then resubmitted the application.

Site Plan: This plan has four primary points: Highway 42 – right-in/out; Paschal Drive – right-in/out; Kaylix Street – full access and Summit View – full access. It includes 32 residential units (24 age restricted to 55 years); 37,500 SF commercial (2 story in-line 17,850 SF and flex commercial 14,110 SF); no drive-thru's and 229 parking spaces.

Bulk and Dimension Standards: Height complies with CDDSG; Setbacks comply with

GDP and the 2-3 stories are compliant with the Comp Plan. The commercial component includes office; neighborhood retail; flex artisan space; close proximity to the roadway and complies with the CDDSG and Comp Plan.

Original Architecture: Height - 30 feet; Architecture 2nd Submittal - Commercial – 28.5 feet in height; 2-story and 17,850 SF. Residential: 32 units (24 age-restricted, 55 years and older and 8 non-restricted units); 35 feet maximum height; buffer between commercial and existing residential. Boulder Valley School District estimates 8 unrestricted units will result in 1 student at LES, 0 students at LMS, and 1 student at Monarch High.

Residential Parking: 64 spaces (2 per unit) and enclosed garage spaces are compliant with the Louisville Municipal Code. Commercial Parking: 165 spaces. CDDSG requires 4.5 spaces per 1,000 SF – 5.16 spaces per 1,000 SF if measured at 85% GLA (31,960 SF), 4.4 spaces per 1,000 SF at 37,600 SF (6 spaces less than required). Waiver approved through LMC for multi-tenant reduction, public easement in excess of Public Land Dedication and exceptional design.

Landscaping: Waiver requested to reduce amount of street due to existing easements and powerlines. Staff believes alternatives can be achieved by speaking with easement owners. Applicant will continue to work with staff on final tree placement.

Staff recommendation: Staff recommended approval of Ordinance Nos. 1712 and 1713, Series 2016 and Resolution No. 3, Series 2016 with the following conditions:

1. The 24 age restricted condominiums shall be for ages 55 and older. The 55 years and older age restriction shall be placed on the deed of each age restricted unit and shall also be included in the subdivision agreement and a covenant agreement enforceable by the City of Louisville.
2. Staff recommends the wall signs of the In-line building, shown as vertical address numbers, be removed from the PUD and all wall signs must comply with Chapter 7 of the CDDSG and Chapter 17.24 of the LMC.
3. The applicant shall continue to work with the Parks Department on the type and location of additional trees along Highway 42, prior to recordation.
4. The applicant shall continue to work with the Public Works Department on the items listed in the October 25, 2015 memo. Each item shall be completed prior to recordation.
5. Residential and Commercial Development shall be constructed concurrently.

APPLICANT PRESENTATION

Justin McClure, RMCS, 2100 Sunset Drive, Longmont, CO presented the Foundry Development proposal. He stated in his mind Steel Ranch is an unfinished project. He wanted to complete the project in a quality way and is sensitive to the residents concern relative to more residential development. He explained to complete the project there is

property to develop south of steel ranch, which has a commercial/retail component.

He addressed the development of an adjacent project in the City of Lafayette and voiced his opinion it is not of the same quality of development found in Louisville. He felt Louisville could do better. He addressed the great recession and the economic meltdown with the elimination of big box stores. He noted the Lafayette property was zoned commercial and the developer, McStain, sold the property to get the cash. He did not want the property south of Steel Ranch to meet the same fate and that is the reason for bringing forth the Foundry development project. They hosted a community meeting at the Recreation Center to receive public input. With that input they resubmitted their proposal for the Foundry.

He noted most of the development in Louisville has been in Ward I with the North End Project; Steel Ranch and The Lanterns. He requested Council approval of the Foundry to complete the development. The Foundry contains 28 age-restricted units and 8 non-age restricted units and will be a vibrant development containing retail, boutique services and adaptable spaces for entrepreneurs. The adaptable spaces will include retail on the bottom floors and 2.5 stores for condominiums, which lends toward outdoor living. Every unit will have living space above and has elevator access. He presented site plans and artists renditions of the proposal.

COUNCIL COMMENT

Council member Maloney inquired about the metrics of the design and asked Mr. McClure how the new design differs from the original metrics design, which did not work. Mr. McClure explained the development of the condominiums will fund the speculative development on commercial property. He explained the retail viability is what the property can support.

Council member Maloney asked if the developer anticipates the same success as The Source has in Denver. Mr. McClure explained there are eight bays and not quite as many tenants as The Source. He explained currently it models with the potential rents for those spaces. The rents will be discounted upfront in order to get the right tenants and to meet the requirements of the lenders.

Council member Stolzmann explained she submitted a number of detailed questions to the staff earlier this afternoon. She asked whether Council wished to review staff's responses during a recess or whether the staff should respond to her questions at this time. Mayor Muckle requested the staff respond to Council member Stolzmann's questions on the record. Interim Planning and Building Safety Director Russ reviewed the responses to Council member Stolzmann's questions as follows:

- 1) The applicant and the Planning Commission (minutes) cite retail vacancies over and again- what is the retail vacancy rate (percent) in a 1 mile radius of the site and what is to be expected during a reasonably strong economic period?

Staff's response: Utilizing the Xceligent database, of the 29 retail properties within one mile of the location, there is a total of 511,540 square feet of leasable area and as of Q4 2015, there is 25,991 sf available resulting in a vacancy rate of 5.1%. In Q4 2012, there was a vacancy rate of 14.6% for the same area. Vacancy rates above 10% for retail is viewed as an early sign that challenges exist for the market.

- 2) How many properties have been required or will be required to remove driveways from HWY42 as part of the HWY 42 Plan and what is our City Traffic Engineers opinion/recommendation of the driveway onto 42? Staff's response: 8 driveways will be removed; the plan was approved by the City Traffic Engineer.
- 3) Could you include the Fire Departments Referral Comments? Staff response: The Fire Marshal comment letter was submitted.
- 4) Can you make a table explaining the property tax structure on this property (including metro district) and how the mills change with the change in zoning- including a comparison showing one commercial property to the many broken up areas. Staff's response: Commercial property is taxed at 29% of market valuation, while residential is taxed at 7.96% of market valuation. According to the model, the proposed development would generate \$22,000 per year in property tax at buildout, with a 20 year cumulative total of \$408,000. The original GDP would have generated \$29,000 per year and \$517,000 cumulatively. A table was presented.

COUNCIL QUESTIONS

Council member Stolzmann addressed tracts A through D and Blocks 1 – 6 and asked if there were individual properties. Interim Planning and Building Safety Director Russ explained tracts are typically public property/public shared spaces (Parks and Plazas). Those tracts are not revenue generating properties.

Council member Stolzmann asked if either the City or the Metro District would receive any revenue from those tracts. City Attorney Light explained if tracts are owned by an association, they would not have their own separate tax ID and separate tax bill. Under the Common Interest Act, the value of the residential and commercial property is parceled out and assumed as part of the value of the private land. None of the entities would realize the benefit of the land on a tax bill specific to a common area.

Council member Stolzmann inquired how the benefit would be distributed to a parking area in a commercial area. Mr. McClure explained parking for the commercial uses would be valued for the commercial units and would be collected with the commercial units' tax bills. The driveways and parking spaces for the residential uses would be valued for condominium units and would be collected with the residential tax bills.

Council member Stolzmann explained this Metro District has a steep mill rate and she wanted to ensure each parcel was paying their fair share.

Questions No 4) a and 4) b:

- a. What is the zoning of the parking lots? Staff's response: PCZD-C/R, same as entire property.
- b. How does this compare to other commercially zoned properties which include parking lots in the area (say the Walgreens on SOBORO or the Union Jack). Another way of asking is, can you show the mill rates in a column added to the table on page 136 & show how that is a change from the existing land use and explain how the assessment works with regard to properties with and without improvements? Staff's response: Answered above.

5) How many residential units were in each phase of this GDP and how much commercial was in each phase?

Staff's response:

- a. Original GDP – Ord. 1536, Series 2008: Creation of Takoda GDP, 350 Units in 4 Planning Areas and 71,743 SF of commercial development in Planning Area #1.
- b. 1st Amendment – Ord. 1576, Series 2010: Unit swap between Planning Areas, (no change in density) and no change to commercial square footage in Planning Area #1.
- c. 2nd Amendment – Ord. 1601, Series 2011: Added Steel Ranch South; Increased density by 104 units (306 total) and no change to commercial square footage in Planning Area #1
- d. 3rd Amendment – Ord. 1656, Series 2014: Added the Lanterns – 24 Units and no change to commercial square footage in Planning Area #1
- e. 4th Amendment – Ord. 1680, Series 2015: zoned 245 North 96th Street PCZD-C/R: 231 Affordable housing units and 18,406 SF of additional commercial square footage.
- f. 5th Amendment – Ord. 1710, Series 2015: Expanded commercial from 18,406 SF to 64,468 SF of commercial square footage.
- g. 6th Amendment – Ord. 1712, Series 2016: The Foundry – adding 32 Units (24 age restricted), while reducing the allowed commercial development to 37,100 SF in Planning Area #1.

COUNCIL QUESTIONS

Council member Stolzmann asked Mr. McClure why he could not leverage the 478 units to fund the commercial component. She asked what was so special about the 32 units. Mr. McClure explained it was because of the global economic meltdown and the level of support it would take for speculative commercial, in order to collect rents. Council member Stolzmann asked if they have leases. Mr. McClure explained he is currently working on discussion of leases.

Council member Loo inquired about the 104 units and the 306 total. Principal Planner McCartney explained the 306 units were derived by adding 104 units to their allowable 202 units on North Main. Earlier amendments adjusted the numbers in Steel Ranch South, which added 104 additional units. Steel Ranch South has a total of 306 units.

- 6) Please provide the assumptions for the fiscal model in a table (income, retail \$/sqft, absorption year for retail, any modifications to capacity factors from the base, and so on). Staff's response: Attachment #1 (Foundry Fiscal Model Assumptions).
- 7) What is the impact to the general fund (revenue and expense) if the retail is occupied in year 3, 10 or never? Staff's response: Fiscal Model Attachments # 3 year, 10 year, 20 year (Cumulative Combined Funds Results – Fiscal Impact Model.)

COUNCIL COMMENTS

Council member Stolzmann stressed the importance of having the fiscal model for development projects. She stated her understanding the condo residents will spend approximately \$276 per week in Louisville. When the household income is above the median, there is an assumption goods can be bought in Louisville.

- 8) Does the applicant own or have some right to design and rezone the Summit View subdivision? Staff's response: Yes, they own the property.
- 9) The drawings do not clearly depict internal circulation on the site. Does the alleyish road that runs North South go through? Staff's response: The internal roadway shown on the PUD is a private drive and provides access north, south, east and west.
 - a. Is it a named street? Staff's response: No.
 - b. Who is responsible for maintenance? Staff's response: The Developer.
- 10) The staff report refers to condominiums, which implies to me that the units being built are individually owned however I do not see the properties segregated on the plat. Are these really apartments? Staff response: We have been told they are condominiums. The City of Louisville does not have a condo platting process. These are typically done through the County.
- 11) What guidance is there in the City Code regarding rezoning policy? Staff's response: This is a rezoning only in terms of modifying the General Development Plan (GDP) which is processed as a Planned Community Zone District (PCZD) as established in Section 17.72. This request is an amendment to an existing GDP. City Attorney Light commented on changing plans to address condos and noted it would be a legislative change to provide the regulatory authority on filing a condo plat, which would be a subdivision action. If the PUD is for apartments and there is a desire for

condos, there would have to be a separate condo plat to create a legal interest in the air space. There is still a compliance with the PUD.

COUNCIL QUESTIONS

Council member Stolzmann asked what enforcements or assurances does the neighborhood have. Interim Planning and Building Safety Director Russ explained it could be conditioned in the resolution. City Attorney Light stated there is probably language in the plan, but confirmed it could be conditioned in the resolution. Mr. McClure confirmed the Final Development Plan refers to the units as condominium units.

Mayor Muckle asked if the Final Plan assured park spaces have permanent public access easements. Interim Planning and Building Safety Director Russ confirmed it did.

Council member Keany asked if the applicant accepted the six conditions. Mr. McClure confirmed the applicant accepts all six conditions.

Council member Maloney noted there were several emails from the public and addressed the concern for the Paschal median and the light requirement. Interim Planning and Building Safety Director Russ explained there have been neighborhood requests for direct left turn access off Paschal into the development. The staff is working with applicant to make that entrance a right in/right out. He stressed a left turn access is not an appropriate movement with a future signal light coming to this location.

Council member Maloney inquired about reducing the lighting requirements along Kaylix sidewalks. Principal Planner McCartney stated staff can look at the lighting for traffic and pedestrian safety.

PUBLIC COMMENT

Gary Larson, 2189 Park Lane, Louisville, CO stated he will be looking at the condos from his back porch. He explained he is a member of the newly formed Steering Committee for the 95th Street Coalition. They want to ensure any residential development is compatible with the existing community and any commercial development is economically viable. At their first meeting, Mr. McClure presented the Foundry proposal. After the meeting, the applicant made changes to incorporate the public concerns. The Coalition feels this development is compatible with the community. They propose a do not block box in the eastbound lane. He addressed the street lights and noted the Steel Ranch patio homes are on timers. He noted at the Planning Commission meeting, they discussed bringing back the water tower.

Peter Wengert, 872 Meadow Lark Lane, Louisville, CO stated there is a very good positive feeling about this project. The residents feel it is a people friendly project.

There are approximately 1,000 walkers in Steel Ranch who are looking forward to walking to the Foundry. He felt this will be a beautiful entry way into the City and voiced his support for the project.

Dave Ireland, 2358 Park Lane, Louisville, CO stated he is an enthusiastic supporter of the Foundry project.

Sherry Sommers, 910 Palisade Court, Louisville, CO stated her understanding this project is in compliance with the Comprehensive Plan and has the support of the neighbors. She inquired about the role of the small area plan in this development. She noted last spring the City Council stated there would not be more rezoning and urbanization in this area until the impact of the development could be analyzed. She also addressed the project's height and stated her understanding the maximum height for most residential units is two stories. He noted these units will be 2-3 stories. She stated a lot of people worked hard on the small area plan and the plan should be considered.

Sandy Stewart, 649 August Drive, Louisville, CO voiced his support for the project.

Alex Bradley, 1385 Caledonia Circle, Louisville, CO inquired why all the units are not age-restrictive. She wanted confirmation all the age-restricted units will be universal in design. She voiced her concern over the Foundry commercial component and noted the square footage was too small. She voiced her concern over the school enrollment at Louisville Elementary. She reported on meeting a local resident, who sends her children to school in Broomfield, because LES is too large. She stressed the BVSD referrals are old and out dated and should be redone. She requested all the age-restricted units be universal in design and for an explanation on why all 32 units cannot be age-restricted to solve the school issue.

COUNCIL COMMENT

Council member Stolzmann was also interested in knowing why all the units could not be age restricted, the issue of the small area planning and how they are impactful.

Mr. McClure stated there is a need for condo units for adults who are not 55 and do not wish to do yardwork anymore. Condos are a product type, which can provide such for those individuals.

Interim Planning and Building Safety Director Russ explained the small area plan was not applicable to this application as the plan has not been adopted.

Mayor Pro Tem Lipton stated he struggled with balancing the enthusiasm for condos against some significant policy issues related to density, infill and the request for commercial property owners to stimulate their project, by including residential components, not included in the original zoning. He voiced his concern for other commercial property owners who may request equity on how they are treated. He

stressed the importance of being fair, equitable and consistent. He did not believe the Council has finished its planning for potential growth. He noted there is citizen concern for the added stress on City services as new population is added. He did not believe the Council has discussed the broad principles and policy issues associated with this request.

Council member Keany stated he understood Mayor Pro Tem Lipton's concern. He asked the City Attorney whether the City is creating precedence on the Council's decision making in looking at this project and whether Council is following the City's Code. City Attorney Light explained this is a timing question. A rezoning is evaluated in light of the objectives, purposes and provisions of the Comprehensive Plan. If the small area plan is not adopted, it is not a part of the Comprehensive Plan. There are legal methods to close the time gap, but they are not available at this time. Action on one application does not have any bearing on another application being adjudicated under its own process, based on the law in effect at the time. If Council desires to make future decisions after the additional Comprehensive Plan is completed there must be a mechanism to close the time gap.

Council member Keany addressed the quasi-judicial process before the Council. He asked whether the Council was required to approve or disapprove the application this evening. City Attorney Light stated it is a matter of judgment and criteria for rezoning under common law and in the Louisville Municipal Code. It is an evaluation of judgment of a broad criteria relating to the question of whether the request is consistent with the policies and goals of the City's Comprehensive Plan. With respect to rezoning, Council must consider whether the rezoning change is in the public interest. Another criterion is whether the rezoning would be to provide land for a community use.

Mayor Pro Tem Lipton asked if there was a criteria related to a community benefit. City Attorney Light explained it is by referencing the desires of the community expressed in the Comprehensive Plan.

Mayor Pro Tem Lipton voiced his concern for a consistent process. He expressed his frustrations the small area plans have not been adopted. He was concerned the development would begin before the small area plan is complete and there will not be any guidelines. He noted if the small area plans are not adopted, the Council will not be able to use those tools in their decision making.

Council member Loo stated she also struggled with this development, but after listening to the public input, she was convinced this is a great project. She liked the design and the quality of the development. She felt if the development is not approved today, the land may lay vacant. With respect to the school issue, she did not feel this would add students to local schools. She did not agree with the full movement entrance on Paschal Drive and stated the signage needs improvement. She stated she was pleasantly surprised with the positive fiscal analysis. She noted many Louisville seniors are looking for this type of housing.

Council member Maloney stated when he first looked at this proposal he was opposed because of the erosion of the commercial space. After staff's presentation and the public input, he believed it was a quality proposal. He agreed with Mayor Pro Tem Lipton with respect to being consistent and fair. He also was concerned over the erosion of the City's commercial base.

Council member Leh supported the project because it would be a quality development. He agreed it is unfortunate the small area plans have not been adopted to provide guidance, but congratulated everyone on the process. He felt this would be a good project because of the age-restricted units, which would have less impact on traffic and the schools. He was concerned about what may go into the property, if the proposal is denied.

Council member Stolzmann commented she initially felt the development was not compatible with the surrounding homes, but after the neighborhood support, she has changed her mind. She felt there should be some language added to ensure condominiums and not apartments are built. She felt all the units should be age-restricted to satisfy the school and traffic issue and would be a valid reason for the rezoning. She addressed the intersection at Paschal Drive and stressed the importance of not creating an unsafe intersection. She requested comments on age-restriction and condo language. She stated the fiscal impacts are consistent with the Comprehensive Plan. She noted the \$600,000 condo units will be well above the City's median income level and those residents will be spending their dollars in Louisville. She had no opinion on the water tower and confirmed it is still in the project.

Mayor Muckle stated he was impressed by the comments, both from the public and from the Council. He stated there are definitely reasons to deny the application based on the loss of commercial and the densification, but felt the reasons to approve far outweigh those concerns, especially when considering the age-restricted units. He agreed it will be the northern gateway to the City. He felt the fiscal outcomes are acceptable. He noted there is neighborhood support for the development. He did not feel a decision on one project influences any other, as each project is judged on its own merits. He supported the water tower and well-lit sidewalks for walkers.

Council member Keany supported adding language stipulating condos only. He was comfortable with the 24 age-restricted units and leaving the remaining 8 market rate. He also supported keeping in the water tower.

Council member Maloney asked if there were five or six conditions. City Attorney Light stated there are five conditions on the PUD ordinance and one condition for the zoning ordinance regarding use issue. There is also a sixth condition for the PUD Resolution.

PUBLIC COMMENT

Jeffrey Gass, 784 Meadow Lark Lane, Louisville, CO voiced his support for the project.

He stated the Steel Ranch community is in full support of the project. He supported adding to the tax base instead of leaving the land vacant. It will improve the north entrance into Louisville by adding unique steel buildings, which would be different from the south entrance into the City and seeing the empty Sam's Club.

Debbie Fahey, 1118 Enclave Circle, Louisville, CO supported the project because of the age-restricted units and was in favor of having all the units age-restricted.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

COUNCIL COMMENTS

Mayor Pro Tem Lipton stated he would vote in favor of the application although he had concerns over the loss of commercial. He voiced his frustration with not having the tools in the small area plan. He voiced his hope guidelines could be accomplished after the Council Retreat.

City Attorney Light reviewed the City Council's requested revisions to Ordinance No. 1712, Series 2016: In the last WHEREAS: WHEREAS, the PCZD-C/R zoning classification for the Property as further set forth on the Takoda GDP 6th Amendment, subject to the conditions herein, is consistent with the City of Louisville 2013 Citywide Comprehensive Plan.

Section 1. The City Council of the City of Louisville hereby approves the Takoda GDP 6th Amendment (the "Takoda GDP 6th Amendment") for the property legally described in Exhibit A attached hereto (the "Property") and, pursuant to the zoning ordinances of the City, such Property is zoned Planned Community Zone District Commercial/Residential (PCZD-C/R) for the uses permitted in the Takoda GDP for the Property, a copy of which Takoda GDP 6th Amendment is attached hereto as Exhibit A, subject to Section 2 hereof and subject further to the condition that a note shall be added to the GDP stating that drive-thru restaurants and automobile service stations are a prohibited use within the GDP and that single family attached dwelling uses are limited to duplex, townhouse and condominium uses, with apartments prohibited.

ORDINANCE No. 1712, SERIES 2016

MOTION: Council member Keany moved to approve Ordinance No. 1712, Series 2016, as amended by the City Attorney, seconded by Mayor Muckle. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1713, SERIES 2016

MOTION: Mayor Muckle moved to approve Ordinance No. 1713, Series 2016, seconded by Council member Keany. Roll call vote was taken. The motion carried by a vote of 7-0.

City Attorney Light reviewed the City Council's requested revision to Resolution No. 3, Series 2016, which adds Condition 6. Add a sentence to the PA-1B General Notes, item 1, stating "This PUD authorizes only condominium project type development." He asked Council for their preference in the number of age-restricted units.

Council Discussion: Mayor Muckle, Council member Loo, Leh, Keany and Maloney supported 24 age-restricted units. Council member Stolzmann supported all 30 units.

City Attorney Light added the following language to the revised condition: Further, revise the phrase "a potential amount of units" to state instead "24 units."

RESOLUTION No. 3, SERIES 2016

MOTION: Mayor Muckle moved to approve Resolution No. 3, Series 2016 with the six conditions as cited by the City Attorney, seconded by Council member Loo.

Council member Loo voiced her frustrations with signage and offered a friendly amendment to eliminate condition number 2. Mayor Muckle did not accept the amendment.

MOTION: Council member Loo moved to strike condition 2 from the resolution, seconded by Council member Keany.

Council member Stolzmann preferred to have public comment on the matter.

Council member Leh did not support the amendment. Council member Keany voiced his support for the amendment.

VOTE ON THE AMENDMENT: Roll call vote was taken. The motion failed by a vote of 5-2. Mayor Muckle, Mayor Pro Tem Lipton and Council members Maloney, Leh and Stolzmann voted no.

VOTE ON THE MAIN MOTION: All were in favor.

1125 PINE STREET MINOR REPLAT

- 1. ORDINANCE No. 1711, SERIES 2016 – AN ORDINANCE APPROVING A REZONING OF A PARCEL OF LAND LOCATED AT 1125 PINE STREET FROM CITY OF LOUISVILLE COMMERCIAL COMMUNITY (CC) TO MIXED-USE RESIDENTIAL (MU-R) AND RESIDENTIAL MEDIUM DENSITY (R-M) AND AMENDING THE BOUNDARIES OF THE OLD TOWN OVERLAY DISTRICT IN CONNECTION THEREWITH – 2ND READING – PUBLIC HEARING**

**2. RESOLUTION No. 2, SERIES 2016 – A RESOLUTION APPROVING A
REPLAT TO COMBINE THREE PARCELS AND SUBDIVIDE THE PROPERTY
INTO TWO SEPARATE LOTS AT 1125 PINE STREET**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1711, Series 2016 and Resolution No. 2, Series 2016 and noted members of the public may speak on either of the agenda items.

Mayor Muckle opened the public hearing and requested a staff presentation.

Interim Planning and Building Safety Director Russ explained the request for rezoning, replat to combine three parcels to subdivide the property into two separate lots, rezoned mixed use residential (MU-R) and Residential Medium Density (RM). The subject property is located on the north side of Pine Street between the Burlington Northern Santa Fe Railroad and Highway 42. It is currently zoned Commercial Community Zone (CC) and part of the Highway 42 Revitalization area. The lot is 15,813 SF.

Section 16.16.050 (C) of the Louisville Municipal Code requires the maximum depth of all residential lots not to exceed 2 ½ times the width of the lot. For all other lots, the depth shall not exceed three times the width. The dimensions for the proposed Lot 2 are approximately 230' X 55' from the northernmost corner to the southernmost corner. The depth is 4.18 times the width. Lot 2 does not comply with the Code. Section 16.24.010 of the Louisville Municipal Code grants the City Council, upon advice of the Planning Commission, to authorize modifications from the requirements in cases where there is exceptional topographical conditions or other conditions peculiar to the site. Staff believed the site is a "peculiar" shape due to the abandoned railroad right-of-way and existing depth of the lot. The subdivider would not be able to provide two lots, which meet the depth to width ratio while providing the required lot frontage. Staff recommended the City Council authorize the modification.

Proposed Zoning: The required rezoning of this property must be consistent with the framework provided Land Use Exhibit A in the MUDDSG. Lot 2 – Residential Medium Density: 10,502 SF allows up to three residential units. Staff recommended the proposed Lot 2 be included with in the Old Town Overlay Zoning District. If authorized, the Old Town Overlay will be amended to include the proposed Lot 2, which does not require a PUD. Lot 1: Mixed Use – Residential: 4,703 SF must comply with the MUDDSG and requires a PUD. The existing single-family dwelling is considered a legal, non-conforming use and can continue with its use as a single-family home.

The Planning Commission held a public hearing on the application on December 10, 2015 and voted 6-0 to approve the replating as well as the rezoning and recommended City Council approval. Staff recommended City Council approval of Ordinance 1711, Series 2016 and Resolution No. 2, Series 2016.

PPLICANT PRESENTATION

Arn Rasker, 4782 Valhalla Drive, Boulder, CO explained he represents the owner, who lives out of state. He explained this project began when the City requested a right-of-way easement for the new drainage plan on the northern parcel. He explained nothing could be done with the property until it conformed to the new zoning overlay. Once the zoning is approved plans to develop the property can begin. He noted this project will add commercial space, which is currently under design.

Jean Morgan, 1131 Spruce Street, Louisville, CO explained in the packet, sometimes the street is referred to as Lee Street and other times it is referred to as Lee Avenue. She requested it be referred to as Lee Avenue. She addressed the Spruce side addition and asked if it would be compatible with the existing homes on Spruce Street. Interim Planning and Building Safety Director Russ confirmed it would be compatible.

Ms. Morgan addressed the 15% public land dedication and voiced her concern that parking for the units would impact the historic miner's cabins. She requested the 15% public land dedication be for land to separate the development from the miner's cabins. She asked for confirmation there will be approval for 3-units. Interim Planning and Building Safety Director Russ confirmed there could be up to 3-units. She felt preserving the historic cabins was important.

Interim Planning and Building Safety Director Russ confirmed the subject property is south of the miner's cabins. He explained there is a drainage easement between the cabins and the subject property, which is part of the Flood Plan Improvement project.

COUNCIL COMMENT

Council member Stolzmann addressed the notion of hardship and lot layout and inquired about the long range layout for the area. She referred to the lot lines and completed calculations on the depth of the lot. She calculated it would be 125.9' deep from the property's east property line. The applicant calculated 137.2' deep. She understood why it should not apply to the whole property, but did not feel it would create a hardship to apply from the street and back (south of Spruce Street). She felt the applicant was trying to maximize the lot depth of Lot 2.

Council member Keany asked for clarification it would add 12 feet to Lot 1 on Pine Street. Council member Stolzmann confirmed it would add 12 feet.

Mayor Muckle inquired how the angled portion of property would be used. Interim Planning and Building Safety Director Russ explained it is a land dedication for Spruce Street, which is not currently part of the City's right-of-way, but has access from Spruce.

Mayor Muckle asked if the public land dedication could be for a public park for the miner's cabins. Interim Planning and Building Safety Director Russ explained the staff worked with the Parks Division and Historic Preservation and this land is not in any

adopted plans and therefore, payment in lieu is recommended.

Mayor Muckle requested the measurement for public land dedication for the north lot.

Council member Leh left the meeting at 10:05 p.m.

Council member Maloney inquired about the zoning of adjacent lots. Planning and Building Safety Director Russ explained the property is currently in the Highway 42 Revitalization Plan, which extends to South Boulder. Any request requires a mandatory rezoning. A replat is an intent to redevelop the property and Council has the option to consider the waiver.

Council member Keany inquired whether the odd depth of the property line is located on the north side. Interim Planning and Building Safety Director Russ explained Council member Stolzmann is suggesting if the property line is moved 12' north, that portion of the site where the development would likely be would be more consistent with the Louisville Municipal Code.

Council member Keany asked if that would change the number of units allowed. The applicant, Mr. Rasker stated the recalculation would increase the square footage of the southern lot, which would increase the allowance for commercial and above residential. He felt the larger area on the back lot would be advantageous because it would minimize what is built and allow for parking. The recalculation would also reduce the number of units on the northern lot from 3 units to 2 units.

Council member Keany explained Council is asked to consider a waiver for this. Mr. Rasker noted the owner has provided the easement and the triangular piece to the City. He noted it is not a minor thing to replat the entire area.

Planning and Building Safety Director Russ stated, in response to Mayor Muckle's question about the measurement for public land dedication, a change in the calculation would reduce the square footage by approximately 6,000 square feet, which would reduce Lot 2 by 660 SF.

Council member Keany inquired why the triangular piece of property is not acceptable as cash in-lieu. Interim Planning and Building Safety Director Russ explained public land dedication is for public use. Easements and streets are not eligible for public land dedication.

Council member Keany asked if a two lot subdivision could be done without a PUD. Interim Planning and Building Safety Director Russ explained a PUD is not required for a minor subdivision.

Council member Keany asked what would prevent the applicant from subdividing the second lot. City Attorney Light explained if the applicant met the yard and bulk

requirements they could subdivide the lot, but would have to provide legal access to both lots and provide a new subdivision plat that meets and the requirements.

Interim Planning and Building Safety Director Russ recalculated the public land dedication to be 2,000 SF and the 15% requirement would be 1,575 SF.

Mr. Rasker explained the lot is not wide enough to subdivide, and there would not be any access.

Mayor Muckle inquired about the minimum lot in the RM zoning. Principal Planner McCartney stated it is 7,000 SF, but in the MUR zoning there is no minimum lot size.

Jean Morgan, 1131 Spruce Street, Louisville, CO noted the entire area will be developed eventually. She suggested running Spruce Street to the west to access this development. This would allow a border for the south side of the miner's cabins. She requested the Council provide a small park near the cabins.

Interim Planning and Building Safety Director Russ explained the minimum area per unit is 3,500 SF in the RM zone district. Three units will fit into the 10,500 SF, but 10,049 SF will not provide for the three units.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

COUNCIL COMMENTS

Council member Stolzmann proposed the lot line be moved to the right to 125.9. This will take into account the odd angle of the lot and give the width to the applicant. This also ensures the neighborhood can allow the density for the width of the lot. She felt this would be reasonable and consistent with the Louisville Municipal Code.

Mayor Muckle voiced his support and suggested the land dedication be close to the miner's cabins to allow a pocket park. Council member Loo requested a map be drawn to reflect the recalculations.

Interim Planning and Building Safety Director Russ explained if the calculations are changed the applicant must be allowed to respond.

Council member Keany suggested continuing this matter to allow the applicant and staff time to discuss alternatives. There was Council consensus.

Mr. Rasker explained he could not move the lot line without the consent of the owner. He stated the land is private property and if the City wanted the northern portion for a park, they could discuss purchasing it from the owner. He explained the owner has already been delayed in developing his property when the City wanted it for a street. He would discuss moving the lot line with the owner and requested a continuance.

ORDINANCE No. 1711, SERIES 2016 AND RESOLUTION No. 2 SERIES 2016

MOTION: Mayor Muckle moved to continue Ordinance No. 1711, Series 2016, and Resolution No. 2, Series 2016 to February 2, 2016, seconded by Council member Keany. All were in favor.

633 CTC BOULEVARD PLANNED UNIT DEVELOPMENT

- 1. ORDINANCE No. 1714, SERIES 2016 – AN ORDINANCE APPROVING THE VACATION OF AN EASEMENT WITHIN LOT 5, COLORADO TECHNOLOGY CENTER FILING NO. 2 SUBDIVISION – PUBLIC HEARING**
- 2. RESOLUTION No. 4, SERIES 2016 – A RESOLUTION TO APPROVE A FINAL PLANNED UNIT DEVELOPMENT (PUD) PLAN TO CONSTRUCT A 153,018 SF SINGLE STORY INDUSTRIAL/FLEX BUILDING WITH ASSOCIATED SITE IMPROVEMENTS FOR LOT 1, BLOCK 4, THE BUSINESS CENTER AT CTC**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance Nos. 1714, Series 2016 and Resolution No. 4, Series 2016. Members of the public may speak on either agenda items.

Mayor Muckle opened the public hearing requested a staff presentation.

Principal Planner McCartney explained Ordinance No. 1714, Series 2016 is an ordinance approving the vacation of an easement within Lot 5, Colorado Technology Center Filing No. 2 Subdivision. Resolution No. 4, Series 2016 is a request to approve a Final Planned Unit Development (PUD) to construct a 153,018 SF single story industrial/flex building with associated site improvements on Lots 3, 4, 5, and 16 of the CTC Filing 2 Subdivision. The subject property is located in CTC and zoned Industrial (I). It is required to follow the IDDSG. The proposal is for a 153,018 SF general flex space with 72% hardscape; 28% soft scape; 5 access points: two on CTC; two on Boxelder and one from East.

Parking: The “office without loading” amount of 3.7 spaces per 1,000 SF requires a waiver from the IDDSG. Staff believed the waiver request is acceptable and recommended approval.

Signs: Monuments Signs: IDDSG allows one freestanding sign for each access. The applicant is requesting 4 monument signs. Wall Signs Waiver: IDDSG allows 15 SF all signs, not to total more than 80 SF. The applicant is proposing 40 SF signs not to total more than 120 SF.

Staff recommended approval of Ordinance No. 1714, Series 2016 and Resolution

No. 4, Series 2016 with the following condition: 1.) The applicant must comply with the October 22, 2015 Public Works memo prior to recordation.

APPLICANT PRESENTATION

Jim Vasbinder, Etkin Johnson Group, 1512 Larimer Street, Suite 100, Denver, CO, explained this is a proposal for the largest building to be constructed at the Colorado Technology Center. They just broke ground of the property at 2000 Taylor and with Council consideration and approval of this proposal; the applicant will apply for a building permit within the next 30 days.

COUNCIL COMMENTS

Mayor Muckle addressed the requested sign waiver. Council member Stolzmann stated there is consistency as this request is similar to their last request relative to signage.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

ORDINANCE No. 1714, SERIES 2016

MOTION: Council member Stolzmann moved to approve Ordinance No. 1714, Series 2016, seconded by Mayor Muckle. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Council member Leh.

RESOLUTION No. 4, SERIES 2016

MOTION: Mayor Muckle moved to approve Resolution No. 4, Series 2016, seconded by Council member Keany. The vote was 6-0. Absent: Council member Leh.

DISCUSSION/DIRECTION/ACTION – KESTREL HOUSING PROJECT DEVELOPMENT AGREEMENTS

Mayor Muckle requested a staff presentation.

Interim Planning and Building Safety Director Russ reported on the final Subdivision Plat and Planned Unit Development (PUD), for Kestrel, the Boulder County Housing Authority's (BCHA) affordable housing development located at 245 N.96th Street. BCHA has submitted building permits and construction plans for the required public improvements.

Traditionally, a draft subdivision agreement is not shown to City Council because the agreement follows established forms and protocols which staff can negotiate and the mayor can execute once City Council approves a resolution allowing the development. However, in some cases, applicants request non-standard solutions which require Council discussion, direction, and action. Such is the case for the Kestrel Development.

BCHA has four unique requests within the subdivision agreement requiring City Council direction:

- 1) Improvement guarantee: BCHA is requesting a hybrid improvement guarantee, which provides only a portion of the guarantee be in the form of a letter of credit to assure stabilization of site soils and construction of Hecla Drive and related underground utilities.
- 2) Traffic Signal Funding: BCHA, and its lenders, are requesting a modification to this requirement to establish at this time a cost for BCHA's share of the signal improvement. With Council approval, staff would negotiate and set in the subdivision agreement an amount and time for payment based on a City cost estimate and an inflation factor recognizing the new Paschal and Highway 42 signal warrant is anticipated to occur in 2018 (an estimated BCHA payment of \$214,000).
- 3) Impact fee deferral: BCHA is requesting their impact fee payment be deferred from the issuance of building permits, expected this month, to March/April when State of Colorado grant monies are available to pay these fees.
- 4) Estoppel agreement: City Attorney Light reviewed the request for an Estoppel Agreement. Regarding the funding of the affordable housing project, the BCHA's lender (Citibank N.A.) requests the City enter into a project-specific "estoppel agreement" intended to confirm certain obligations, such as the requirement to provide the warranty guarantee for completed public improvements, will remain with BCHA notwithstanding transfer of project land into the new, single-purpose entity that will own the property, build the improvements and operate the affordable housing project. This estoppel agreement will also include a subordination stating that the required affordability restrictions for BCHA's affordable housing development are subordinate to the lender's collateral interest under its loan. All of the other funding agencies are also being asked to subordinate, under their restrictive covenants, to the lender's collateral interest under its loan.

Staff Recommendation: Staff recommended the City Council adopt a motion to (1) approve the improvement guarantee, traffic signal funding and impact fee solutions as outlined above; (2) approve as to form the proposed estoppel and subordination agreement for the project; and (3) authorize the Mayor to execute the final versions of the estoppel and subordination agreement and other development agreements for the Kestrel development.

APPLICANT PRESENTATION

Norrie Boyd, Boulder County Housing Authority, 2525 13th Street, Boulder, CO explained this has been a lengthy process and requested Council consideration.

COUNCIL COMMENT

Council member Lipton addressed the “estoppel agreement” and asked what is backstopping this project, if it fails. City Attorney Light explained the only backstop is what has been approved on the property to date. In the event of foreclosure the lender does not have the right to develop whatever they choose. The property would still be subject to general zoning laws. There are cases in Colorado between public entities and foreclosing lenders on what exactly survives on foreclosure. In the interest of the City other land use provisions of the City would continue and the zoning would still be in place. The property is in PCZD zoning, which is a negotiated zoning.

Mayor Pro Tem Lipton voiced his concern over the probable worst case scenarios, which would be the loss of affordable housing restrictions. He explained he was always leery of real estate matters.

Mayor Muckle stated the worst case scenario would be the City would end up with a nice PUD and design that was not for affordable housing. He supported the conditions as proposed.

Mayor Pro Tem Lipton asked Interim Planning and Building Safety Director Russ to address the potential risk for the public improvements not being made. Interim Planning and Building Safety Director Russ explained the downside of this project not being complete is there would not be a financial guarantee to complete the public improvements. The improvement guarantee provides the land can get to a point of development at Council’s discretion.

City Attorney Light explained because it is not automatic, the City asks for letters of credit to have ready access to the funds to complete the public improvements. If the public improvements are not completed and there is not a financial guarantee, there is still a contract, which stipulates they will complete the improvements. The standard rule for letter of credits is 115% for all public improvements. To date, the City has asked for a cash guarantee for the Hecla exchange and drainage improvements.

MOTION: Mayor Muckle moved to (1) approve the improvement guarantee, traffic signal funding and impact fee solutions as outlined above; (2) approve as to form the proposed estoppel and subordination agreement for the project; and (3) authorize the Mayor to execute the final versions of the estoppel and subordination agreement and other development agreements for the Kestrel development. Council member Keany seconded the motion. The motion carried by a vote of 6-0. Absent: Council member Leh.

CITY ATTORNEY’S REPORT

No items to report.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Council member Stolzmann reported the DRCOG's representatives received a packet of information for tomorrow night's meeting, which requests a legislation position on a number of bills. She will use the City's legislative policy to guide her decisions and look at the area of local controls. DRCOG staff members have asked for Board direction on these items.

City Manager Fleming noted this is Interim Planning and Building Safety Director Russ' last meeting with the City. He thanked Troy for his contributions to the City including the DDI, the 2013 Comprehensive Plan, and future items, including the South Street Underpass and a procedure issue - the electronic development review process.

Mayor Muckle also expressed his thanks to Interim Planning and Building Safety Director Russ on behalf of the City Council.

Planning and Building Safety Director Russ expressed his thanks to City Manager Fleming and the Mayor and City Council. He stated it was a pleasure to plan a City he lives in and the City he loves.

ADJOURN

MOTION: Mayor Muckle moved for adjournment, seconded by Council member Keany. All were in favor. The meeting was adjourned at 10:55 p.m. Absent: Council member Leh.

Robert P. Muckle, Mayor

Nancy Varra, City Clerk